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December 20, 2021

ROBERT S. NAYBERG
1960-2021

By ECF

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Broecker, *et al.* v. New York City Department of Education, *et al.*
Docket No. 21-CV-06387-KAM-LB

Dear Judge Matsumoto:

This law firm represents all of the Plaintiffs, in the above-referenced Action.

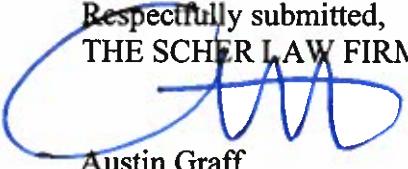
The NYCDOE made two material misrepresentations in their response to the Plaintiffs' papers regarding standing that must be corrected.

First, the NYCDOE states, twice, that PERB "appointed an arbitrator to attempt to resolve the impasse". **Docket Entry #41**, at page 5. PERB appointed a mediator, not an arbitrator. **Docket Entry #21-2**.

Second, the NYCDOE states that the Plaintiffs' "placement on LWOP and their projected separation was the result of negotiations between the City and UFT." **Docket Entry # 41**, at page 6. The Impact Arbitration Award was not the result of negotiations, but a binding arbitration award. As the UFT states, there would have been no "purpose to having a ratification vote on a *binding* arbitration award, as the vote would not change the binding nature of the Award." **Docket Entry #42**, at page 8 (emphasis in original).

Thank you.

Respectfully submitted,
THE SCHER LAW FIRM, LLP


Austin Graff

cc: Counsel of Record (by ECF)